

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 3 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed :
to see the judgements?

2. To be referred to the Reporter or not? :

3. Whether Their Lordships wish to see the fair copy :
of the judgement?

4. Whether this case involves a substantial question :
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? :

BABUBHAI RANCHHODBHAI PANCHAL

versus

MACHINERY AND EQUIPMENT MANUFACTURERS PVT.LTD.

Appearance:

MR SN SOPARKAR for Petitioner

MR GN SHAH for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 19/11/1999

ORAL JUDGEMENT

This petition was filed by three Directors of the respondent-Company Machinery & Equipment Manufacturing Pvt. Ltd. for winding up of the respondent-Company on the ground that there was a complete dead-lock on account of lack of probity in the management of the Company and there is no hope or possibility of smooth and efficient continuance of the Company as a commercial concern and, therefore, the Company was sought to be wound up on the ground that it would be just and equitable to do so. It

was also pleaded that the Company had no activity and the Company was required to be closed down. It was also pleaded that winding up was also justified on the ground that for the last 10 years prior to the date of filing of the winding up, the Company had ceased to do any activity and, therefore, the Company was required to be wound up on the ground that it had suspended its business for more than a year.

2. Initially, while issuing notice this Court had passed an order for appointing the Court Commissioner for making inventory of various assets and properties of the Company. Thereafter on 7.3.1995, the Court passed an order admitting the petition and recorded the statement made by the learned counsel for both the parties that no advertisements be issued. It appears that accordingly the admission of the petition has not been advertised. When the matter last came up for hearing on 4.2.1998, the Court passed for the following order :-

"Mr Soparkar for the petitioners states that petitioner No. 1 has expired and he will therefore examine as to whether it is necessary to bring his heirs on record and if it is so, he will make an application. S.O. to 18/2/1998."

Again at the request of the learned counsel for the parties, the matter was adjourned from time to time and lastly on 11.2.1999, the Court passed the following order :-

"S.O. to 18.3.1999 on the request of Mr Soparkar. He states that petition No. 1 has expired long back and he wants to know from the heirs of petitioner No. 1 and from other petitioners as to whether they are keen on proceeding with the matter any further. Ms Shah has no objection."

3. Even today, the learned counsel for the petitioners states that he has not received any instructions from either the heirs of petitioner No. 1 or the other petitioners i.e. Nos. 2 and 3 as to whether they are interested in proceeding with the petition. Admittedly, the admission of the petition has not been advertised. Under the circumstances, this Court does not consider this to be a fit case for proceeding with the matter on merits as the petitioners themselves do not seem to be interested in prosecuting this petition for winding up of the respondent-Company. Under the circumstances, this petition is dismissed with liberty to

the petitioners to apply for revival, if an appropriate case is made out.

4. Subject to the aforesaid liberty, the petition is dismissed.

November 19, 1999 (M.S. Shah, J.)
sundar/-